

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ANTOLIN ANDREW MARKS,

Plaintiff,

V.

MARK GILES, *et al.*,

Defendants.

Case No. C07-5572RJB/JRC

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter comes before the Court on the Report and Recommendation of U. S. Magistrate Judge J. Richard Creatura. Dkt. 71. The Court has considered the Report and Recommendation, objections to the Report and Recommendation, if any, and the record.

Plaintiff filed this 42 U.S.C. 1983/Bivens action on October 17, 2007. Dkt. 1. At the time he filed suit, Plaintiff was incarcerated at the Northwest Detention Center (“NDC”), but has now been released. Dkt. 58. Plaintiff asserted claims against employees of GEO, a contractor at the NDC, and federal employees. Dkt. 1. Defendants Alisha Singleton, Charles McBurney, and George Wigen (employees of GEO) were dismissed by stipulation on January 9, 2008. Dkt. 12.

On September 24, 2008, all Plaintiff's claims against the remaining Defendants, federal employees Tom Giles, SDO Ruxhall, and Jack Bennett, were dismissed except his Eighth Amendment claim challenging the conditions of his confinement. Dkt. 28.

Parties then engaged in discovery. *See e. g.* Dkt. 67. On July 22, 2009, the remaining Defendants filed a Motion for Summary Judgment. Dkt. 60. The Motion for Summary Judgment was noted for August 14, 2009. *Id.* Plaintiff did not file a response, and so by order of the Court, Plaintiff was given an

1 extension of time to file a response, and the Motion for Summary Judgment was renoted for September 18,
2 2009. Dkt. 68. On August 25, 2009, rather than file a response to the Motion for Summary Judgment,
3 Plaintiff filed a Motion for Reconsideration of Order Denying Motion to Compel. Dkt. 69. His Motion for
4 Reconsideration was denied. Dkt. 70.

5 On October 5, 2009, the instant Report and Recommendation was filed, recommending that the
6 Court grant Defendants' Motion for Summary Judgment and dismiss the remaining claim. Dkt. 71.
7 Although he has been given ample time to do so, Plaintiff has not filed a response.

8 Upon review of the Report and Recommendation (Dkt. 71) the Defendants' Motion for Summary
9 Judgment should be granted and the remaining claim dismissed with prejudice.

10 Accordingly, it is hereby **ORDERED**:

- 11 • The Report and Recommendation (Dkt. 71) is **ADOPTED**;
- 12 • Defendants' Motion for Summary Judgment (Dkt. 60) is **GRANTED**;
- 13 • The remaining claim is **DISMISSED WITH PREJUDICE**;
- 14 • This case is **CLOSED**; and
- 15 • The Clerk is directed to send copies of this Order to Plaintiff, all counsel of record, and to the Hon.
16 J. Richard Creatura.

17 DATED this 3rd day of November, 2009.

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21 Robert J. Bryan
22 United States District Judge
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